

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**JAIME QUINONES RODRIGUEZ,**  
**Plaintiff**

**v.**

**CIVIL NO. 05-1821(DRD)**

**ANDOXX CORPORATION d/b/a**  
**PLAVICA AUTO CENTER, et als.,**  
**Defendants**

<b>MOTION</b>	<b>ORDER</b>
<b>Date Filed: 11/18/05</b> <b><u>Docket #7</u></b> <input type="checkbox"/> <b>Plaintiff</b> <input checked="" type="checkbox"/> <b>Defendant</b> <b>Title: Motion to Dismiss</b>	<p><b>DENIED WITHOUT PREJUDICE.</b> Plaintiff has filed an Amended Complaint at Docket No. 13. The Court notes that Rule 15(a) provides that “leave shall be freely given when justice so requires”. <u>Foman v. Davis</u>, 371 U.S. 178, 182 (1962). “In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.— the leave sought should, as the rule require, be ‘freely given’”. <u>Foman v. Davis</u>, 371 U.S. at 182. Because the record is devoid of any apparent or declared reason of prejudice by the defendant, the Second Amended Complaint was granted by the Court (Docket No. 16). Accordingly, the instant motion to dismiss must be denied without prejudice and shall be resubmitted should moving party deem warranted under the allegations of the second amended complaint.</p> <p>Accordingly, filings at <b>Docket Nos. 8, and 15</b> are found to be <b>MOOT</b> for premature at this point of the proceedings.</p>

**IT IS SO ORDERED.**

In San Juan, Puerto Rico this 9<sup>th</sup> day of December 2005.

**S/DANIEL R. DOMINGUEZ**  
**DANIEL R. DOMINGUEZ**  
**U.S. DISTRICT JUDGE**